

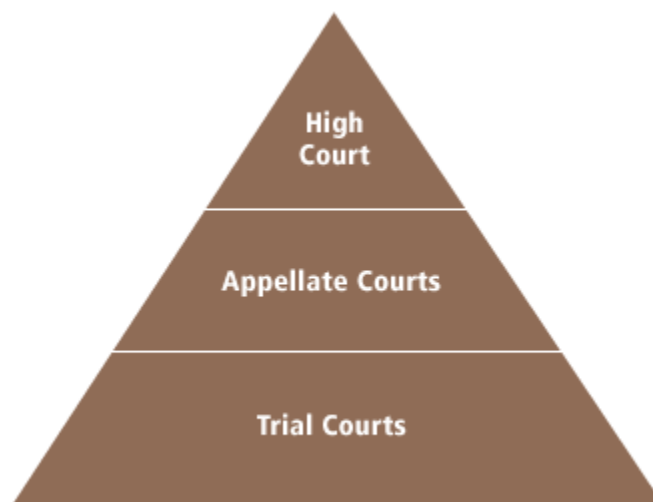
Two Models of Judicial Decision Making

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Introduction and summary: This presentation grows out of my work on a forthcoming book entitled *The Supreme Court Sourcebook*. My co-authors and I wrote the book partly because most of the existing books about the Court written for law students rest largely on the “attitudinal model” of judicial decision making. My co-authors and I wanted to write a book premised primarily on the “legal model” of judicial decision making. My presentation will compare and contrast the two models and discuss how they affected our book.

The Attitudinal Model

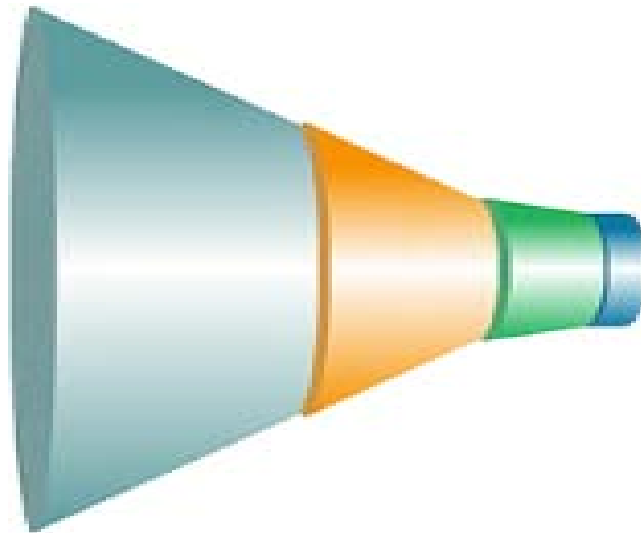
- Judges decide cases to reach the outcome they prefer based on their ideological attitudes and biases.
- A judge’s attitudes and biases are shaped partly by the prevailing views of the judge’s peer group and individual background.
- The model focuses attention on U.S. Supreme Court Justices, and, to a lesser extent, other appellate judges.
- The model often studies high-profile, controversial cases.
- The model envisions the court system as a pyramid.



- The model uses the phrase “the myth of legality” to describe the view that “cases are decided by application of legal rules formulated and applied through a politically and philosophically neutral process of legal reasoning.”

The Legal/Professional Model

- Judges decide cases based on the facts and the law.
- Judges' decision-making process is shaped by their legal training, which includes traditional principles of logic, constitutional and statutory interpretation, and so on.
- The model focuses on all judges, and emphasizes the differing roles and responsibilities of judges at each stage of the judicial process.
- The model envisions the court system as a funnel, with trial judges serving as the "first responders" and the "primary care" providers.



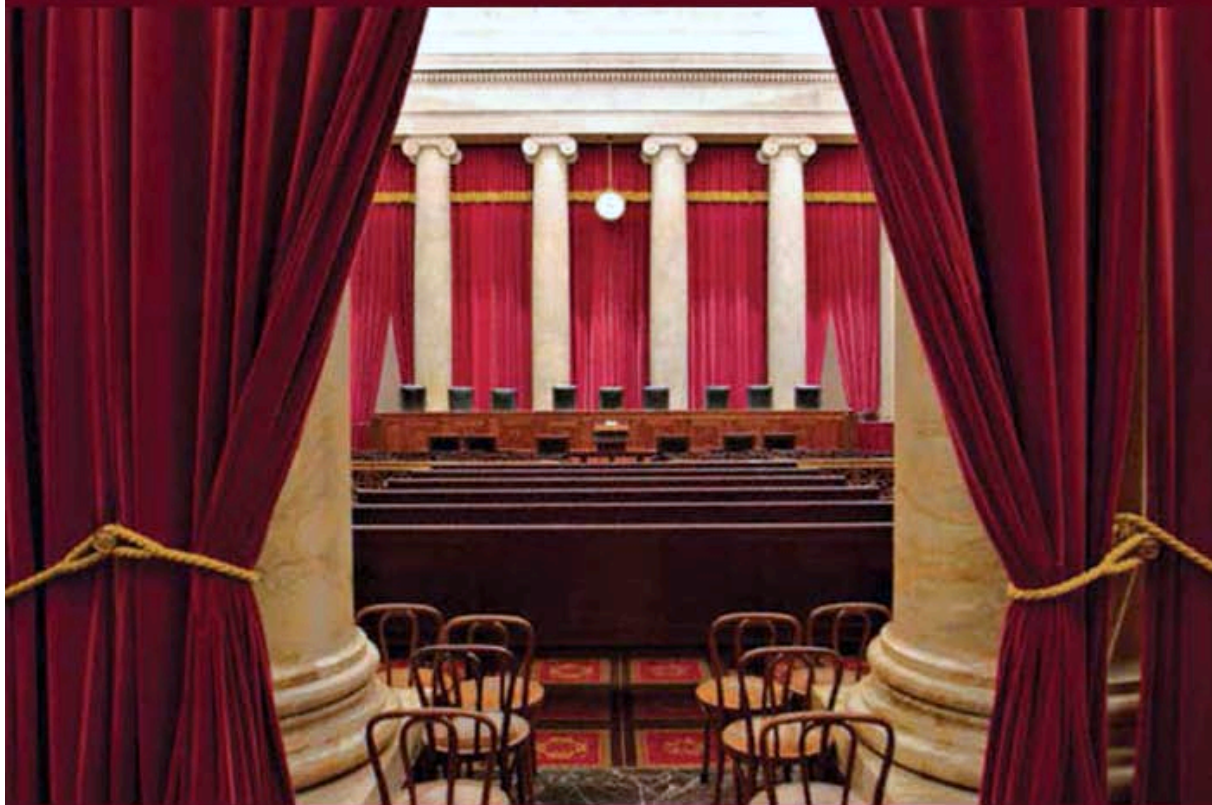
Questions Posed by the Competing Models

- Which is more accurate?
- Which more accurately reflects public *perception* of courts?
- Does media coverage of the courts lend credence to one or the other model?
- To which model (if either) do judges themselves subscribe? *See, e.g.:*

“I would hope that a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a white male who hasn't lived that life.” Sonia Sotomayor, *A Latina Judge's Voice*, 13 Berkeley La Raza L.J. 87, 92 (2002).

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The Supreme Court Sourcebook



Richard Seamon • Andrew Siegel • Joseph Thai • Kathryn Watts



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The Supreme Court Sourcebook

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